

AMENDED IN ASSEMBLY SEPTEMBER 2, 2011

AMENDED IN ASSEMBLY JUNE 30, 2011

AMENDED IN ASSEMBLY JUNE 20, 2011

AMENDED IN SENATE APRIL 13, 2011

AMENDED IN SENATE MARCH 22, 2011

SENATE BILL

No. 771

Introduced by Senator Kehoe
(Coauthors: Senators Blakeslee, Correa, and Harman)

February 18, 2011

An act to amend ~~Sections 26003 and 26011.6~~ *Section 26003* of the Public Resources Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 771, as amended, Kehoe. California Alternative Energy and Advanced Transportation Financing Authority.

Existing law requires the California Alternative Energy and Advanced Transportation Financing Authority to establish a renewable energy program to provide financial assistance to public power entities, independent generators, utilities, or businesses manufacturing components or systems to generate new and renewable energy sources, develop clean and efficient distributed generation, and demonstrate the economic feasibility of new technologies. Existing law defines "renewable energy" to include ~~ultralow-emission~~ *specified* energy generation technologies.

This bill would ~~revise~~ *expand* the definition of "renewable energy" and would ~~additionally define "ultralow-emission energy"~~ to include energy generation based on *thermal energy systems such as* natural gas

turbines; landfill gas turbines, *engines, and microturbines*; digester gas turbines, *engines, and microturbines*; ~~natural gas engines, landfill gas engines, digester gas engines, and fuel cells that the authority, in consultation with the State Air Resources Board, determines to meet specified requirements. The bill would make conforming changes.~~

~~Existing law requires the authority to provide financial assistance to eligible projects.~~

~~This bill would revise the definition of “project” to include a project that utilizes or is designed to utilize alternative source components.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 26003 of the Public Resources Code is
2 amended to read:

3 26003. As used in this division, unless the context otherwise
4 requires:

5 (a) “Authority” means the California Alternative Energy and
6 Advanced Transportation Financing Authority established pursuant
7 to Section 26004, and any board, commission, department, or
8 officer succeeding to the functions of the authority, or to which
9 the powers conferred upon the authority by this division shall be
10 given.

11 (b) “Cost” as applied to a project or portion of the project
12 financed under this division means all or part of the cost of
13 construction and acquisition of all lands, structures, real or personal
14 property or an interest in the real or personal property, rights,
15 rights-of-way, franchises, easements, and interests acquired or
16 used for a project; the cost of demolishing or removing any
17 buildings or structures on land so acquired, including the cost of
18 acquiring any lands to which those buildings or structures may be
19 moved; the cost of all machinery, equipment, and furnishings,
20 financing charges, interest prior to, during, and for a period after,
21 completion of construction as determined by the authority; the cost
22 of the purchase or sale of energy derived from an alternative source
23 pursuant to subdivision (g) of Section 26011; provisions for
24 working capital; reserves for principal and interest and for
25 extensions, enlargements, additions, replacements, renovations,
26 and improvements; the cost of architectural, engineering, financial,

1 accounting, auditing and legal services, plans, specifications,
2 estimates, administrative expenses, and other expenses necessary
3 or incident to determining the feasibility of constructing any project
4 or incident to the construction, acquisition, or financing of a
5 project.

6 (c) (1) “Alternative sources” means the application of
7 cogeneration technology, as defined in Section 25134; the
8 conservation of energy; or the use of solar, biomass, wind,
9 geothermal, hydroelectricity under 30 megawatts, or any other
10 source of energy, the efficient use of which will reduce the use of
11 fossil and nuclear fuels.

12 (2) “Alternative sources” does not include a hydroelectric facility
13 that does not meet state laws pertaining to the control,
14 appropriation, use, and distribution of water, including, but not
15 limited to, the obtaining of applicable licenses and permits.

16 (d) “Advanced transportation technologies” means emerging
17 commercially competitive transportation-related technologies
18 identified by the authority as capable of creating long-term, high
19 value-added jobs for Californians while enhancing the state’s
20 commitment to energy conservation, pollution reduction, and
21 transportation efficiency. Those technologies may include, but are
22 not limited to, any of the following:

23 (1) Intelligent vehicle highway systems.

24 (2) Advanced telecommunications for transportation.

25 (3) Command, control, and communications for public transit
26 vehicles and systems.

27 (4) Electric vehicles and ultralow-emission vehicles.

28 (5) High-speed rail and magnetic levitation passenger systems.

29 (6) Fuel cells.

30 (e) “Financial assistance” includes, but is not limited to, either,
31 or any combination, of the following:

32 (1) Loans, loan loss reserves, interest rate reductions, proceeds
33 of bonds issued by the authority, insurance, guarantees or other
34 credit enhancements or liquidity facilities, contributions of money,
35 property, labor, or other items of value, or any combination thereof,
36 as determined by, and approved by the resolution of, the board.

37 (2) Any other type of assistance the authority determines is
38 appropriate.

39 (f) “Participating party” means either of the following:

1 (1) A person, or an entity or group of entities engaged in
2 business or operations in the state, whether organized for profit or
3 not for profit, that does either of the following:

4 (A) Applies for financial assistance from the authority for the
5 purpose of implementing a project in a manner prescribed by the
6 authority.

7 (B) Participates in the purchase or sale of energy derived from
8 an alternative source pursuant to subdivision (g) of Section 26011.

9 (2) A public agency or nonprofit corporation that does either of
10 the following:

11 (A) Applies for financial assistance from the authority for the
12 purpose of implementing a project in a manner prescribed by the
13 authority.

14 (B) Participates in the purchase or sale of energy derived from
15 an alternative source pursuant to subdivision (g) of Section 26011.

16 (g) (1) “Project” means a land, building, improvement to the
17 land or building, rehabilitation, work, property, or structure, real
18 or personal, stationary or mobile, including, but not limited to,
19 machinery and equipment, whether or not in existence or under
20 construction, that utilizes, or is designed to utilize, an alternative
21 source, or that is utilized for the design, technology transfer,
22 manufacture, production, assembly, distribution, or service of
23 advanced transportation technologies, alternative source
24 components, or an arrangement for the purchase, including
25 prepayment, or sale of energy derived from an alternative source
26 pursuant to subdivision (g) of Section 26011.

27 (2) “Project,” for the purposes of Section 26011.8, means any
28 tangible personal property that is utilized for the design,
29 manufacture, production, or assembly of advanced transportation
30 technologies or alternative source products, components, or
31 systems.

32 (h) “Public agency” means a federal or state agency, department,
33 board, authority, state or community college, university, or
34 commission, or a county, city and county, city, regional agency,
35 public district, school district, or other political entity.

36 (i) (1) “Renewable energy” means a device or technology that
37 conserves or produces heat, processes heat, space heating, water
38 heating, steam, space cooling, refrigeration, mechanical energy,
39 electricity, or energy in any form convertible to these uses, that

1 does not expend or use conventional energy fuels, and that uses
2 any of the following electrical generation technologies:

- 3 (A) Biomass.
- 4 (B) Solar thermal.
- 5 (C) Photovoltaic.
- 6 (D) Wind.
- 7 (E) Geothermal.

8 (2) For purposes of this subdivision, “conventional energy fuel”
9 means any fuel derived from petroleum deposits, including, but
10 not limited to, oil, heating oil, gasoline, fuel oil, or natural gas,
11 including liquefied natural gas, or nuclear fissionable materials.

12 (3) *Notwithstanding paragraph (1), for the purposes of this*
13 *section, “renewable energy” also means ultralow-emission*
14 *equipment for energy generation based on thermal energy systems*
15 *such as natural gas turbines; landfill gas turbines, engines, and*
16 *microturbines; digester gas turbines, engines, and microturbines;*
17 *and fuel cells.*

18 (j) “Revenue” means all rents, receipts, purchase payments,
19 loan repayments, and all other income or receipts derived by the
20 authority from a project, or the sale, lease, or other disposition of
21 alternative source or advanced transportation technology facilities,
22 or the making of loans to finance alternative source or advanced
23 transportation technology facilities, and any income or revenue
24 derived from the investment of money in any fund or account of
25 the authority.

26 ~~(k) “Ultralow-emission energy” means energy generation~~
27 ~~equipment based on thermal energy systems such as natural gas~~
28 ~~turbines, landfill gas turbines, digester gas turbines, microturbines,~~
29 ~~natural gas engines, landfill gas engines, digester gas engines, and~~
30 ~~fuel cells that the authority, in consultation with the State Air~~
31 ~~Resources Board, determines will achieve reductions of the~~
32 ~~greenhouse gas emissions pursuant to the California Global~~
33 ~~Warming Solutions Act of 2006 (Division 25.5 (commencing with~~
34 ~~Section 38500) of the Health and Safety Code) and meet the State~~
35 ~~Air Resources Board’s certification standards adopted pursuant to~~
36 ~~Section 41514.9 of the Health and Safety Code, as set forth in~~
37 ~~Article 3 (commencing with Section 94200) of Subchapter 8 of~~
38 ~~Chapter 1 of Division 3 of Title 17 of the California Code of~~
39 ~~Regulations.~~

1 ~~SEC. 2. Section 26011.6 of the Public Resources Code is~~
2 ~~amended to read:~~

3 ~~26011.6. (a) The authority shall establish a renewable energy~~
4 ~~and ultralow-emission program to provide financial assistance to~~
5 ~~public power entities, independent generators, utilities, or~~
6 ~~businesses manufacturing components or systems, or both, to~~
7 ~~generate new and renewable or ultralow-emission energy sources;~~
8 ~~develop clean and efficient distributed generation, and demonstrate~~
9 ~~the economic feasibility of new technologies, such as solar,~~
10 ~~photovoltaic, wind, and ultralow-emission energy. The authority~~
11 ~~shall give preference to utility-scale projects that can be rapidly~~
12 ~~deployed to provide a significant contribution as a renewable~~
13 ~~energy supply. The program established pursuant to this~~
14 ~~subdivision shall include financial assistance provided pursuant~~
15 ~~to subdivision (g) of Section 26011.~~

16 ~~(b) The authority shall make every effort to expedite the~~
17 ~~operation of renewable and ultralow-emission energy systems, and~~
18 ~~shall adopt regulations for purposes of this section and Section~~
19 ~~26011.5 as emergency regulations in accordance with Chapter 3.5~~
20 ~~(commencing with Section 11340) of Part 1 of Division 3 of Title~~
21 ~~2 of the Government Code. For purposes of that Chapter 3.5,~~
22 ~~including Section 11349.6 of the Government Code, the adoption~~
23 ~~of the regulations shall be considered by the Office of~~
24 ~~Administrative Law to be necessary for the immediate preservation~~
25 ~~of the public peace, health and safety, and general welfare.~~
26 ~~Notwithstanding the 120-day limitation specified in subdivision~~
27 ~~(e) of Section 11346.1 of the Government Code, the regulations~~
28 ~~shall be repealed 180 days after their effective date, unless the~~
29 ~~authority complies with Sections 11346.2 to 11347.3, inclusive,~~
30 ~~as provided in subdivision (c) of Section 11346.1 of the~~
31 ~~Government Code.~~

32 ~~(c) The authority shall consult with the State Energy Resources~~
33 ~~Conservation and Development Commission regarding the~~
34 ~~financing of projects to avoid duplication of other renewable and~~
35 ~~ultralow-emission energy projects.~~

36 ~~(d) The authority shall ensure that any financed project shall~~
37 ~~offer its power within California on a long-term contract basis.~~

38 ~~(e) The authority shall ensure that a financed project is limited~~
39 ~~to resources that the authority determines support the state's goals~~
40 ~~for the reduction of emissions of greenhouse gases pursuant to the~~

- 1 ~~California Global Warming Solutions Act of 2006 (Division 25.5~~
- 2 ~~(commencing with Section 38500) of the Health and Safety Code).~~

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